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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,465

08/17/2005

Reiji Hattori

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EXAMINER

SHAPIRO, LEONID

ART UNIT

PAPER NUMBER

2629

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/520,465	<b>Applicant(s)</b> HATTORI ET AL.	
	<b>Examiner</b> Leonid Shapiro	<b>Art Unit</b> 2629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 3-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2 and 16 is/are rejected.
- 7) ☒ Claim(s) 14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/07/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 2,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi et al. (6,407,763) in view of Murata (3,936,816).

As to claim 2, Yamaguchi et al. teaches an image display device (col. 1, lines 8-13) which comprises an image display panel, in which the liquid powders, are sealed between opposed two substrates, at least one of two substrates being transparent, and, in which the liquid powders, to which an electrostatic field produced by a pair of electrodes provided on one substrate or both substrates respectively is applied, are made to move so as to display an image (fig. 30, col. 2, lines 17-50), wherein a chip for transmitting a drive signal to the image display panel is arranged in the substrates (in reference is equivalent to line side and row side) (col. 21, lines 29-39).

Yamaguchi et al. does not disclose an aerosol state such that solid-like substances are suspended in a gas stably as dispersoid.

Murata teaches dispersoid (fig. 3, item 26, from col. 3, line 65 to col. 4, line 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate teachings of Murata into Yamaguchi system in order to permit versatile display (col. 1, lines 5-7 in the Murata reference).

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As to claim 16, Yamaguchi et al. teaches an average particle diameter  $d(0.5)$  of the liquid powders is 0.1 - 20  $\mu\text{m}$ . (col. 4, lines 43-48).

### ***Allowable Subject Matter***

2. Claims 14-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Relative to claim 14 the major difference between the teaching of the prior art of record (Yamaguchi et al. and Murata) and the instant invention is that an apparent volume in a maximum floating state of the liquid powders is two times or more than that in none floating state.

Relative to claim 15 the major difference between the teaching of the prior art of record (Yamaguchi et al. and Murata) and the instant invention is that a time change of the apparent volume of the liquid powders satisfies the following formula:

$V_{10}/V_5 > 0.8$ ;

here,  $V_5$  indicates the apparent volume ( $\text{cm}^3$ ) of the liquid powders after 5 minutes from the maximum floating state; and  $V_{10}$  indicates the apparent volume ( $\text{cm}^3$ ) of the liquid powders after 10 minutes from the maximum floating state.

### ***Response to Arguments***

3. Applicant's arguments filed 03/05/09 have been fully considered but they are not persuasive:

On page 8, 1<sup>st</sup> paragraph of Remark, Applicant's stated that Claim 2 recites that "a chip for transmitting a drive signal to the image display panel is arranged in the substrate." Yamaguchi does not disclose or fairly suggest at least this feature of the invention recited in claim 2. However, Yamaguchi et al. teaches a chips for transmitting a drive signal to the image display panel is arranged in the substrates (in reference is equivalent to line side and row side) (col. 21, lines 29-39).

On page 9, 2<sup>nd</sup> paragraph of Remark, Applicant's stated that Murata mentions that a material may be a dispersoid, but it does not teach or suggest an aerosol state as required by claim 2. However, Murata teaches dispersoid (fig. 3, item 26, from col. 3, line 65 to col. 4, line 3).

On page 9, 3<sup>rd</sup> paragraph of Remark, Applicant's stated that any combination based on hypothetical advantages would employ impermissible hindsight. However, In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

***Telephone inquire***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid Shapiro whose telephone number is 571-272-7683. The examiner can normally be reached on 8 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

05/28/09

/L. S./

Examiner, Art Unit 2629

/Richard Hjerpe/

Supervisory Patent Examiner, Art Unit 2629